IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3114 OF 2004

Nahalchand Laloochand Pvt. Ltd. & Ors...PETITIONERS

Versus

State of Maharashtra & Ors.....RESPONDENTS

Dr.Virendra Tulzapurkar, Senior Counsel with H.D. Mehta with Mr. Prakash Shah i/b. M/s.Prakash & Co., for the Petitioners

Mr.R.M. Sawant, Govt. Pleader for Respondent Nos. 1 to 4.

Mr.Shivajirao Patil, for Respondent Nos.5 to 13.

CORAM: F.I. REBELLO J.

DATE : 6th December,2004

P.C.

. The petitioners by the present petition seek to challenge the order dated 30th April, 2003 whereby the Scheduled Tribes Certificate Scrutiny Committee has directed issuance of caste certificate in favour of late Devkubai K.Nankar. The grievance of the petitioners is that before issuing the certificate they were not given hearing and the Appellate Authority proceeded to issue certificate based on non-existing document. It is sought to be pointed out that as per the order dated 9th December, 2003 the Scrutiny Committee was bound to hear and consider the contention of the petitioners herein which has not been done and on that count the order of the Appellate Authority is

liable to be set aside and the matter remanded back to the Competent Authority for rehearing in terms of the order of this Court dated 9th December, 2003.

2. On the other hand on behalf of the Respondent -State learned Government Advocate points out that the final order was order dated 9th December, 2003. The earlier order was purely an interim order. By the final order the learned Judge of this Court has not issued any direction that the petitioners be heard at the time of issuing the tribe certificate. The direction if at all on the facts of that case are limited at the stage of verification of the validity of the tribe certificate, which is a step subsequent to the issuance of a tribe certificate by the Competent Authority.

3. Having heard learned Counsel to my mind on the facts and circumstances it is not necessary to interfere with the order of the Appellate Authority. That order is merely issuance of tribe certificate which has no finality and confers no right. It is only after the said certificate is validated by duly Constituted Scheduled Tribes Scrutiny Committee the said certificate will be valid. It is at that stage that the order of this Court dated 9th December, 2003 has directed that the petitioners would be heard and also to produce documents. Considering that and as the Appellate Authority itself was the Scheduled Tribes Scrutiny Committee the ends of justice would be met if the Verification Committee other than the Scheduled

Tribes Scrutiny Committee which has considered the Appeal, hear the issue of verification and/or validation of the Tribe Certificate. Needless to say that all contentions raised by the Petitioners herein will be open to be raised before the said Committee. The learned Government Advocate points out that the nearest Committees functioning for the Region are in Pune and Nasik. The papers be forwarded to the Committee at Pune for deciding the issue of Tribe validity in terms of the order of this Court dated 9th December, 2003. The petitioners as well as the Respondent Nos. 5 to 12 agree to go before the Committee at Pune. Needless to say that the said Committee would not be influenced by any observations made in the order of the Appellate Authority and will confine itself to all the tests as required to be followed as laid down in Madhuri Patil's case.

. Petition disposed of accordingly.

(F.I. REBELLO, J.)